



RECEIVED

MAY 01 2003

PATENT

TECH CENTER 1600/2900

Practitioner's Docket No. 17396/09015

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: Maurice R. De Billot, Schalk Van Wyk, Theunis M. Odendaal, Dennis Paul Phillion, Jeffrey S. Coulter, Ernest F. Sanders, Greg A. Penner, Jawed Asrar, and Michael K. Stern

Application No.: 10/026,301

Group No.: 1616

Filed: 12/19/2001

Examiner: Pryor, Alton N.

For: METHOD OF IMPROVING YIELD AND VIGOR OF PLANTS

Commissioner for Patents  
Washington, D.C. 20231

CERTIFICATE OF MAILING UNDER 37 C.F.R. § 1.8(a)

I hereby certify that the attached correspondence comprising:

1. Response to Requirement for Election of Species (2 pages)
2. Return Postcard (1 page)

is being deposited with the United States Postal Service, with sufficient postage, as first class mail in an envelope addressed to:

Commissioner for Patents  
Washington, D.C. 20231

on Apr. 23, 2003.

Anna A. Von

Signature of person mailing paper



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

RECEIVED 1616

MAY 01 2003

TELEFAX CENTER 1600/2000

In re application of DeBillot *et al.*  
Serial No. 10/026,301  
Filed: December 19, 2001  
For: Method of improving yield and  
vigor of plants

Group Art Unit: 1616  
Examiner: Alton N. Pryor  
Our Ref: 17396/09015  
Deposit Acct. No. 50-2548

9  
ver 3  
5-6-3

Commissioner of Patents and Trademarks  
Washington, D.C. 20231

**RESPONSE TO REQUIREMENT FOR ELECTION OF SPECIES**

This is filed in response to the requirement for election of species that was asserted in the Office Action having a date of mailing of March 26, 2003, and is believed to address each and every issue that was raised in that Action. It is respectfully requested that the election of species that is described below be entered into the case and that the claims be examined and considered and be found to be allowable.

**Election of species under 35 USC §121:**

In response to the requirement for the election of species, the Applicant hereby elects 4,5-dimethyl-N-2-propenyl-2-trimethylsilyl-3-thiophenecarboxamide (which may also be called silthiofam, or silthiopham) as the fungicide which has no significant activity against plant pathogens for such agronomic plant [which is the subject of treatment].

The Action also mentions the requirement that Applicant must specifically name or define additional ingredients, and that claims listing additional ingredients will be classified as non-elected without such name or definition. Applicant specifically names soybeans as the plant, *Bradyrhizobium japonicum* as the inoculum, captan as the

[additional] fungicide, and glyphosate resistance as the transgenic event, as additional elements in claims in which those elements are features.

The Applicant believes that claims 1 – 3, 13 – 20, 23 – 72, and 75 read on the elected fungicide species (4,5-dimethyl-N-2-propenyl-2-trimethylsilyl-3-thiophenecarboxamide (silthiofam, or silthiopham)), or are generic for such species.

Request for consideration:

Applicant respectfully requests that the claims be considered and be found to be allowable. If one or all of the claims are deemed not to be allowable, the Examiner is invited to contact the undersigned attorney at the telephone number given below for the purpose of resolving any remaining issues.

Respectfully requested,

NELSON MULLINS RILEY & SCARBOROUGH

23 April 2003  
Date



Charles E. Dunlap  
Registration No. 35,124

Keenan Building, Third Floor  
1330 Lady Street  
Columbia, SC 29201  
Phone: (864) 250-2238  
Fax: (803) 256-7500